

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

The Spectrum Policy Task Force Seeks  
Comment on Issues Relating to the  
Commission's Spectrum Policies

ET Docket No. 02-135

To: The Spectrum Policy Task Force

**REPLY COMMENTS OF PANAMSAT CORPORATION**

PanAmSat Corporation ("PanAmSat") hereby submits these reply comments in response to the Commission's public notice<sup>1</sup> and the initial comments of the parties in the above referenced proceeding.

**I. INTRODUCTION**

PanAmSat owns and operates a global satellite system. Its system is comprised of geostationary fixed satellite service space stations operating on C-band and Ku-band frequencies.<sup>2</sup> As a company whose business is built upon transmissions via radio frequencies, PanAmSat has an obvious interest in the Commission's radio spectrum policies.

In these reply comments, PanAmSat supports the positions expressed in the comments of the Satellite Industry Association ("SIA"), of which PanAmSat is a member. PanAmSat also opposes certain proposals made by the Cellular

Telecommunications and Internet Association (“CTIA”) in its comments. Finally, PanAmSat addresses certain international issues that were identified in the Commission’s public notice.

## II. SUPPORT FOR SIA

PanAmSat supports the positions taken in SIA’s comments. In particular:

- There already is a well-functioning secondary market for satellite services.
- The Commission should continue to apply flexible spectrum allocation and assignment policies for satellite services (*e.g.*, encouraging better technology, expanding the spectrum available to satellite systems, and imposing milestones and other requirements to deter speculation and warehousing) so that market forces, not the Commission, picks winners and losers.
- Auctioning spectrum for international or global satellite services is unlawful and would harm the U.S. satellite industry.
- The Commission should not authorize additional operations on an unlicensed basis in bands used by satellite systems unless there is conclusive evidence, including valid test results, demonstrating that satellite services will be adequately protected.
- The Commission should not redefine the terms “interference” and “harmful interference,” or attempt to quantify what constitutes harmful interference, but should clarify the use of those terms in its rules.
- Application of a harmful interference standard to unlicensed devices, *see, e.g.*, 47 C.F.R. § 15.5(b), may not provide adequate protection for licensed services, and may have the paradoxical effect of permitting these devices to cause a greater degree of interference than primary services that are subject to the permissible interference standard.
- The Commission should continue to maximize flexibility in the satellite services by establishing broad technical parameters (*e.g.*, two degree spacing) and permitting satellite licensees to coordinate with one another

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<sup>1</sup> Public Notice, DA 02-1311 (June 6, 2002).

<sup>2</sup> PanAmSat also has been authorized to launch and operate a number of Ka-band satellites.

to work out the details of their operations within those parameters and resolve interference issues. Coordination leads to the most flexible use of the spectrum and the deployment of new technologies more expeditiously.

- Incumbent and future users in all services should be protected from harmful interference and unacceptable interference from any new services.
- Satellite system operators already have a substantial incentive to use spectrum efficiently. The Commission authorizes a wide variety of satellite services, however, and there is no way to compare effectively the spectrum efficiency of these disparate services. It would be inappropriate, moreover, to attempt to compare the spectrum efficiency of satellite services with their terrestrial counterparts, because satellite services have important public interest features, such as their ubiquity and capacity to provide communications to widely separated populations, that do not readily translate into an efficiency standard.

### **III. OPPOSITION TO CTIA**

Because international satellite licenses are not assigned by auction, CTIA asserts that satellite licensees do not have a “market based incentive to use spectrum efficiently.”<sup>3</sup> Based on this assertion, CTIA argues that satellite services should be subject to more stringent licensing and milestone policies.

CTIA’s assertion is demonstrably false. It costs hundreds of millions of dollars to construct, launch, insure, and operate a geostationary satellite. These costs are well in excess of what terrestrial operators bid at auction for the right to serve their markets. For this reason, satellite operators have ample incentive to use their spectrum

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<sup>3</sup> CTIA Comments at 11.

efficiently. Accordingly, there is no need to subject satellite licensees to more stringent policies.

CTIA also maintains that satellite spectrum should be “redeployed as quickly as possible” if a “satellite offering is not able to be implemented.”<sup>4</sup> CTIA does not specify, however, what it means by “redeployed.”

To the extent CTIA simply is taking the position that satellite frequencies should be made available to other satellite applicants if a satellite license is revoked for failure to satisfy its milestones, PanAmSat agrees. PanAmSat suspects, however, that CTIA is suggesting more broadly that the Commission should reclaim and reallocate spectrum designated for satellite services in the event satellite licensees fail to meet their milestones, because CTIA already has taken that position in another proceeding.<sup>5</sup>

To the extent that CTIA is adhering to its previous position, it is overlooking the distinction between reassigning spectrum to another applicant and reallocating spectrum to another radio service. Basing allocation decisions on short term developments is bad policy and is contrary to the public interest. As CTIA well knows, both terrestrial and satellite services can take years, and sometimes decades, to develop after a spectrum allocation has been made. For example, although the Commission’s

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<sup>4</sup> *Id.*

first allocation for cellular service occurred in 1970,<sup>6</sup> the first cellular applications were not filed until 1982 and widespread deployment of cellular services did not take place until the 1990s. If the Commission had reallocated this spectrum because no one had successfully applied for and implemented a cellular system in the early going, the cellular radio service as we know it would not exist today. Moreover, a “use it or lose it” policy like the one CTIA appears to have proposed is particularly inappropriate in the case of satellite allocations, which take years of multinational effort to achieve. Once lost, these allocations are all but impossible to recover.

#### IV. INTERNATIONAL ISSUES

- **25. What role should international/global considerations play in spectrum policy in the United States? And conversely, how should US preparation for regional and international meetings on spectrum policy take into account domestic spectrum policy decisions?**

As the Commission is aware, satellite services increasingly are international or have an international component. Because of this international aspect, it is critical that satellite operators be able to provide their services throughout their service areas in accordance with ITU allocations.

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<sup>5</sup> See Comments of the Cellular Telecommunications & Internet Association, IB Docket No. 02-34, at 8 (June 3, 2002).

<sup>6</sup> See *Inquiry Relative to the Future Use of the Frequency Band 806-960 MHz, and Amendment of Parts 2, 18, 21, 73, 74, 89, 91 and 93 of the Rules Relative to Operations in the Land Mobile Service between 806 and 960 MHz*, First Report and Order and Second Notice of Inquiry, 19 Rad. Reg. 2d (P & F) 1663, ¶9 (1970).

Accordingly, the Commission should endeavor to make its commercial satellite allocation decisions conform to international allocations to the maximum extent possible. It also should defend those allocations once made from subsequent efforts (either domestic or international) to change them in ways that would result in fragmented segments of spectrum for an international satellite service. Deviations from these principles on rare occasions in the past have been costly economically for U.S. satellite interests, and more broadly have damaged U.S. credibility internationally.

The United States should not take any domestic spectrum policy action without understanding its potential international ramifications. Actions that appear to be routine when viewed from a domestic perspective can have major consequences when international considerations are taken into account. No sooner does one World Radiocommunications Conference (“WRC”) end than preparations for the next one begin, and participants in the WRC preparation process around the world pay close attention to U.S. actions. FCC domestic action, therefore, should not be taken until there is an understanding of its strategic and substantive implications for overall U.S. WRC objectives.

Insofar as preparations for regional and international meetings on spectrum policy are concerned, it is critical that the U.S. retain the flexibility to take domestic spectrum policy considerations into account on an ad hoc basis. In some cases, domestic policy objectives are well developed and should be advanced internationally

at regional and ITU meetings. In other instances, policy may still be in the formative stage, and the Commission can let the ITU and regional organizations serve as a test market, using their reactions to policy concepts to assist it in developing domestic spectrum policies.

- **26. How should the requirements for international coordination of satellite systems affect the U.S. assignment of satellite orbits and frequencies for domestic and international service?**

On a number of recent occasions, the Commission has applied truncated milestones to satellite licensees, corresponding to ITU deadlines associated with the orbital locations that the Commission assigned to the licensees. In some cases, final implementation milestones have been set to expire only two or three years after the issuance of a final license, even though Commission policy normally would provide five to six years for system implementation.

This type of additional limitation is contrary to U.S. interests, because it compresses construction and launch cycles to the point where they may conflict with prudent business practices. Rather than departing from its standard milestone policies in these circumstances, the Commission should refile at the ITU for “short-cycled” orbital slots, enabling it to afford satellite licensees the normal complement of years to implement their systems.

- **27. Does the International Telecommunications Union (ITU) spectrum allocation process, as codified in the ITU Radio Regulations, facilitate or impede development of domestic spectrum policies?**

Response:

The response to No. 25 above is also responsive to this question.

PanAmSat also notes that the spectrum allocation process at the ITU provides for multiple, and occasionally conflicting, service allocations in the same band. It is then up to Administrations to decide which services will be provided in their country. With services that are primarily national in scope (i.e., most terrestrial services), this type of allocation by the ITU works well – especially if adjacent countries coordinate use of their bands. However, because satellite systems provide universal coverage across wide areas, it has become increasingly important for there to be harmonized allocations of satellite spectrum regionally or globally.

The Commission is aware of recent cases in which the U.S. has licensed satellite systems in a specific band while other countries have decided to use the band for terrestrial systems. Since in many cases sharing between satellite and terrestrial services is not possible, the presence of the terrestrial services has resulted in major technical coordination and implementation issues for satellite operators and affected terrestrial networks.



PanAmSat notes that this issue is not confined to satellite services. Terrestrial operators are now seeking to deploy their services in multiple countries or on an area-wide/typical station basis, and may confront the same type of implementation and coordination obstacles that satellite operators have been facing.

- **28. Are there ways in which the Commission can or should improve the coordination process with Canada and Mexico? If so, how?**

The U.S. has good working relationships with both of its principal neighbors. The coordination process with Canada and Mexico generally works well, and good lines of communication have been established.

The relationship and cooperative spirit between the U.S. and Canada should serve as a model for the pursuit of bilateral and multilateral arrangements between the U.S. and countries in other parts of our region, or with countries in other regions. By building on the base established by its relations with its neighbors, the U.S. can promote regional and global understanding and cooperation and facilitate market entry and expansion for U.S. satellite operators.

Respectfully submitted,

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